

TITLE 17. CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE CONSUMER PRODUCTS REGULATION AND METHOD 310

The California Air Resources Board (CARB or Board) will conduct a public hearing at the time and place noted below to consider approving for adoption the proposed amendments to the California Consumer Products Regulation.

DATE: May 25, 2018

TIME: 9:00 A.M.

LOCATION: Sacramento County Administration Building
700 H Street
Sacramento, California 95814

This item will be considered at a meeting of the Board, which will commence at 9:00 a.m., May 25, 2018. Please consult the agenda for the hearing, which will be available at least ten days before May 25, 2018, to determine when this item will be considered.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the hearing and may provide comments by postal mail or by electronic submittal before the hearing. The public comment period for this regulatory action will begin on April 6, 2018. Written comments not physically submitted at the hearing must be submitted on or after April 6, 2018, and received **no later than 5:00 p.m. on May 21, 2018**. CARB requests that when possible, written and email statements be filed at least 10 days before the hearing to give CARB staff and Board members additional time to consider each comment. The Board also encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action. Comments submitted in advance of the hearing must be addressed to one of the following:

Postal mail: Clerk of the Board, California Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

Please note that under the California Public Records Act (Gov. Code, § 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

Additionally, the Board requests but does not require that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted in California Health and Safety Code, sections 38500, 38501, 38510, 38560, 38562, 38580, 39600, 39601, 39607, 41511 and 41712. This action is proposed to implement, interpret, and make specific sections 38505, 39600, 39607, 40000, 41511 and 41712 of the California Health and Safety Code.

INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW (GOV. CODE, § 11346.5, subd. (a)(3))

Sections Affected: Proposed amendments to California Code of Regulations (CCR), title 17, sections 94509, 94513 and 94515; proposed amendments to sections 1, 2, 3, 4, 5, 6 and 7, Appendix A, Method 310, "Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products" (last amended August 1, 2014) which is incorporated by reference in title 17, CCR, section 94515.

Documents Incorporated by Reference (Cal. Code Regs., tit. 1, § 20, subd. (c)(3)):

1. Method 310, Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products (last amended August 1, 2014);
2. The following documents are incorporated by reference in the proposed amendments to Method 310, Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products (last amended August 1, 2014):
 - a. ASTM D6730-01(2016), Standard Test Method for Determination of Individual Components in Spark Ignition Engine Fuels by 100-Metre Capillary (with Precolumn) High-Resolution Gas Chromatography, (April 1, 2016).
 - b. ASTM D4057-12, Standard Practice for Manual Sampling of Petroleum and Petroleum Products, (December 1, 2012).
 - c. ASTM D4177-16e1, Standard Practice for Automatic Sampling of Petroleum and Petroleum Products, (October 1, 2016).
 - d. ASTM D4626-95(2015), Standard Practice for Calculation of Gas Chromatographic Response Factors, (April 1, 2015).

- e. ASTM E203-01 Standard Test Method for Water Using Volumetric Karl Fisher Titration, (October 10, 2001).

Background and Effect of the Proposed Regulatory Action:

Section 41712 of the California Health and Safety Code requires CARB to adopt regulations to achieve the maximum feasible reduction in VOC emissions from consumer products (including aerosol coatings). As part of the regulatory process, CARB must determine that adequate data exist for it to adopt the regulations. CARB must also determine that the regulations are technologically and commercially feasible, and necessary to carry out the Board's responsibilities under Division 26 of the Health and Safety Code. In addition, Health and Safety Code section 41712(c) provides that no regulation shall be adopted which requires the elimination of a product form. The Health and Safety Code further stipulates in section 41712(e) that public health agencies be consulted, and their recommendations be considered, prior to adopting regulations for health benefit products. Section 41712 is primarily directed at attaining State and federal air quality standards.

Pursuant to Health and Safety Code section 41712, CARB has adopted the Regulation for Reducing Volatile Organic Compound Emissions from Antiperspirants and Deodorants (the "Antiperspirants and Deodorants Regulation," title 17, CCR, sections 94500-94506.5); the Regulation for Reducing Emissions from Consumer Products (the "Consumer Products Regulation," title 17, CCR, sections 94507-94517); the Regulation for Reducing the Ozone Formed from Aerosol Coating Product Emissions (the "Aerosol Coating Products Regulation," title 17, CCR, sections 94520-94528); the Tables of Maximum Incremental Reactivity (MIR) Values ("Tables of MIR Values," title 17, CCR sections 94700-94701); and the incorporated by reference Method 310, "Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products" ("Method 310"), has been adopted to enforce the above regulations.

The Consumer Products Regulation sets forth VOC limits and other requirements for numerous categories of consumer products, including the Multi-Purpose Lubricant (MPL) products category. For certain categories, the regulation also prohibits use of specific toxic compounds and compounds with high global warming potential (GWP) values. The regulation was originally approved for adoption on October 11, 1990, and has been amended numerous times. The most recent amendments were approved for adoption on September 26, 2013.

Method 310 was adopted on September 25, 1997, and has been amended numerous times, most recently on August 1, 2014. Method 310 is used to determine compliance with various regulatory requirements, and is incorporated by reference in title 17, CCR sections 94506 (Antiperspirants and Deodorants), 94515 (Consumer Products), and 94526 (Aerosol Coating Products).

Staff Proposal

CARB staff has proposed amendments to the Consumer Products Regulation sections 94509, 94513, and 94515 to include an alternate compliance option to provide flexibility for manufacturers in meeting the requirements of the 10 percent by weight VOC limit for MPL products. The alternate compliance option would allow manufacturers to comply by meeting a 25 percent by weight VOC limit and a reactivity limit of 0.45 grams of ozone per gram of product. Staff is also proposing to extend the effective date of the existing 10 percent by weight VOC limit from December 31, 2018, to July 1, 2019, to provide adequate time for manufacturers of MPL products to evaluate their products and decide whether to comply via the alternate compliance option. Additionally, staff is proposing to prohibit the use of compounds with high global warming potentials (GWP) in MPL products.

The sections proposed for amendment are codified in title 17, California Code of Regulations, (CCR) sections 94509, 94513, and 94515.

Amendments to the analytical method, Method 310, are also proposed. The proposed amendments to Method 310 are intended to clarify and update dates of test procedures. Specifically, staff is updating reference method citations and dates, correcting grammar for consistency, and including several additional reference methods.

CARB may also consider other changes to the sections affected, as listed earlier in this notice, during the course of this rulemaking process.

Objectives and Benefits of the Proposed Regulatory Action:

CARB staff is proposing amendments to the consumer products regulation to achieve three objectives: The first is to maintain the ozone air quality benefits and the benefits claimed in the State Implementation Plan (SIP) that the 10 percent VOC limit would achieve. The 10 percent limit was expected to result in 1.27 ton per day reductions in VOC emissions, which were claimed as part of the SIP submitted to United States Environmental Protection Agency (U.S. EPA) in 2010. The proposed amendments ensure that the emissions from products using the alternate compliance option have equal or less ozone forming potential than the 10 percent by weight compliant products.

The second objective is to provide compliance flexibility to manufacturers that would enable them to continue to offer effective products to consumers but achieve similar ozone air quality benefits to those that comply with the mass-based 10 percent by weight VOC limit.

The third objective is to achieve these objectives without significantly impacting compliance costs or increasing the cost of MPL products on the market.

The proposed amendments achieve these goals by setting a product weighted maximum incremental reactivity (PWMIR) limit of 0.45 grams of ozone per gram of

product, and requiring that the products not exceed the current 25 percent by weight VOC limit. It provides the needed flexibility for manufacturers of MPL products and it retains the ozone air quality benefits of the 10 percent by weight VOC limit, achieving benefits equivalent to SIP commitments.

CARB staff is also proposing amendments to Method 310. The proposed amendments would improve the clarity of the test method and update publication dates of test methods previously incorporated by reference. Additionally, several reference methods would be included for the purposes of implementing the alternate compliance option. No changes in public health and safety, and worker safety are expected as a result of this rulemaking.

Comparable Federal Regulations:

There are no direct comparable federal requirements for multi-purpose lubricant products. The "National Volatile Organic Compound Emission Standards for Consumer Products" (40 CFR Part 59, Subpart C, sections 59.201 *et seq.*) set national VOC emission standards for various categories of consumer products. The regulation became effective on September 11, 1998, and the VOC limits became effective on December 10, 1998. There are similarities and differences between the California and National Consumer Products Regulations. However, the National Consumer Products Regulation does not include VOC limits for MPL products or limits on chemicals with high global warming potential.

An Evaluation of Inconsistency or Incompatibility with Existing State Regulations (Gov. Code, § 11346.5, subd. (a)(3)(D)):

During the process of developing the proposed regulatory action, CARB conducted a search of any similar regulations on this topic and concluded these regulations are neither inconsistent nor incompatible with existing state regulations.

MANDATED BY FEDERAL LAW OR REGULATIONS (Gov. Code, §§ 11346.2, subd. (c), 11346.9)

The proposed regulatory action is not mandated by federal law or regulations.

DISCLOSURE REGARDING THE PROPOSED REGULATION

Fiscal Impact/Local Mandate Determination Regarding the Proposed Action (Gov. Code, § 11346.5, subds. (a)(5)&(6)):

The determinations of the Board's Executive Officer concerning the costs or savings incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below.

Under Government Code sections 11346.5, subdivision (a)(5) and 11346.5, subdivision (a)(6), the Executive Officer has determined that the proposed regulatory action would

not create costs or savings to any State agency or in federal funding to the State, costs or mandate to any local agency or school district, whether or not reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with section 17500), or other nondiscretionary cost or savings to State or local agencies.

Housing Costs (Gov. Code, § 11346.5, subd. (a)(12)):

The Executive Officer has also made the initial determination that the proposed regulatory action will not have a significant effect on housing costs.

Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete (Gov. Code, §§ 11346.3, subd. (a), 11346.5, subd. (a)(7), 11346.5, subd. (a)(8)):

The Executive Officer has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

Results of The Economic Impact Analysis/Assessment (Gov. Code, § 11346.5, subd. (a)(10)):

NON-MAJOR REGULATION: Statement of the Results of the Economic Impact Assessment (EIA):

Effect on Jobs/Businesses:

The Executive Officer has determined that the proposed regulatory action would not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California.

These determinations are based on an economic assessment that leads the Executive Officer to expect no adverse economic impacts from the proposed regulatory action. A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Economic Impact Analysis in the Initial Statement of Reasons (ISOR).

Benefits of the Proposed Regulation:

The objective of the proposed regulatory action is to provide flexibility for manufacturers of MPL products to comply with the mass-based 10 percent by weight VOC limit. This added flexibility may allow manufacturers to formulate the effective products that consumers expect while providing the same ozone air quality benefits as products meeting the 10 percent by weight mass-based VOC limit and at a lower cost.

A summary of these benefits is provided, please refer to "Objectives and Benefits", under the Informative Digest of Proposed Action and Policy Statement Overview Pursuant to Government Code 11346.5(a)(3) discussion on page 4.

Cost impacts on a representative private person or business (Gov. Code. § 11346.5(a)(9)):

In developing this regulatory proposal, CARB staff evaluated the potential cost impacts on representative private persons or businesses. No manufacturer is required to participate and only those which determine it is in the best financial interest of the company are expected to do so. If no manufacturers participate, these amendments have no cost. If all four California manufacturers choose to participate, then incurred costs will be \$84,064 from reporting and recordkeeping over the 5 year lifetime of the regulation. Staff estimates \$133,440 in cost-savings to these California businesses as a result of avoided reformulation cost due to the proposed amendments. Thus, the net impact of the proposed amendments is a cost savings to California businesses. Staff expects there would be no impact on consumers.

Effect on Small Business (Cal. Code Regs., tit. 1, § 4, subds. (a) and (b)):

The Executive Officer has also determined under California Code of Regulations, title 1, section 4, that the proposed regulatory action would affect two California small businesses, which are among the four California companies staff identified as having MPL products that do not comply with the 10 percent VOC limit. Staff identified 22 companies located outside California that have products that do not meet the 10 percent VOC limit.

Consideration of Alternatives (Gov. Code, § 11346.5, subd. (a)(13)):

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

The Executive Officer analyzed four alternatives to the proposed amendments and determined that all alternatives would be less effective in carrying out the purpose for which the action is proposed.

ENVIRONMENTAL ANALYSIS

CARB, as the lead agency for the proposed amendments to the Consumer Products Regulation, has prepared an environmental analysis (EA) under its certified regulatory program (California Code of Regulations, title 17, sections 60000 through 60008) to comply with the requirements of the California Environmental Quality Act (CEQA; Public

Resources Code section 21080.5). The EA determined that the proposed amendments would not result in any significant adverse impacts on the environment. The basis for reaching this conclusion is provided in Chapter VI of the ISOR. Written comments on the EA will be accepted during a 45-day public review period starting on April 6, 2018, and ending at 5 p.m. on May 21, 2018.

SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the hearing;
- Documents made available in an alternate format or another language; and
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board hearing.

TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alternativo u otro idioma; y
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envíe un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

AGENCY CONTACT PERSONS

Inquiries concerning the substance of the proposed regulatory action may be directed to the agency representative, Jose Gomez, Manager, Technical Development Section (916) 324-8033 or (designated back-up contact) Daniel Garrett, Air Pollution Specialist, Technical Development Section (916) 324-0388.

AVAILABILITY OF DOCUMENTS

CARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report is entitled: Public Hearing to

Consider Proposed Amendments to the Consumer Products Regulation and CARB Test Method 310.

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on CARB's website listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814, on April 3, 2018.

Further, the agency representative to whom nonsubstantive inquiries concerning the proposed administrative action may be directed is Bradley Bechtold, Regulations Coordinator, (916) 322-6533. The Board staff has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340).

Following the public hearing, the Board may take action to approve for adoption the regulatory language as originally proposed, or with non-substantial or grammatical modifications. The Board may also approve for adoption the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice and that the regulatory language as modified could result from the proposed regulatory action. If this occurs, the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15-days before final adoption.

The public may request a copy of the modified regulatory text from CARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, First Floor, Sacramento, California, 95814.

FINAL STATEMENT OF REASONS AVAILABILITY

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on CARB's website listed below.

INTERNET ACCESS

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on CARB's website for this rulemaking at <http://www.arb.ca.gov/regact/2018/cp2018/cp2018.htm>

CALIFORNIA AIR RESOURCES BOARD



Richard W. Corey
Executive Officer

Date: March 20, 2018

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at www.arb.ca.gov.